

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

**Civil Writ Petition No.7958 of 1988**

**Date of Decision:- March 09, 2010**

Devinder Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

Present: Mr.Jagmohan Chaudhary, Senior Advocate,  
with Mr.F.S.Virk, Advocate for the petitioner.

Mr.Sandeep Khungar, Advocate with  
Ms.Sujita Raj, Advocate,  
for respondent No.2.

**2. Civil Revision No.2515 of 1989 (O&M)**

Naginder Kaur and another

...Petitioners

Versus

Devinder Singh and others

...Respondents

Present: None for the petitioner

Mr.Jagmohan Chaudhary, Senior Advocate,  
with Mr.F.S.Virk, Advocate for respondent No.1.

**CORAM: HON'BLE MR. JUSTICE K.KANNAN**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

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**K.KANNAN, J. (ORAL)**

**CWP No.7958 of 1988**

1. The petitioner seeks for allotment of a plot in his capacity as a locally displaced person, he having suffered loss of property by acquisition

under Punjab Town Improvement Act of 1922. The claim of the petitioner is that as a displaced person, he was entitled to be offered an alternative plot of a similar size. The property which he had lost in acquisition was 300 sq. yds and he had applied for an allotment to the Chairman of the Improvement Trust in the year 1987 and he had also made a payment of Rs.500/- as earnest money on 25.8.1987. The grievance of the petitioner is that although his brother and sister, who had similarly lost property, had been favoured with allotment of plots, the same had been denied to him.

2. The writ petition, therefore, came to be filed seeking for a issuance of writ of mandamus for allotment of a plot which had been originally allotted to him by the Chairman, Improvement Trust, Ludhiana with the boundaries mentioned in the proceedings.

3. The objection on behalf of the Improvement Trust was that the notification for acquisition had been made on 8.7.1973 under Section 36 of the Punjab Town Improvement Act, 1922 and the acquisition was made on 21.5.1975 as per Section 42 and award has been passed on 1.8.1975. It is a submission on behalf of the respondent that the petitioner had not made any application for allotment all the years till the year 1987 but the Chairman of the Improvement Trust had no authority to make allotment without confirmation by the Trust. The further objection was that the Chairman had no power to allot a commercial plot and the Rules that were applicable, when he moved an application in the year 1987, was only the Punjab Town Improvement (Utilization of Land and Allotment of Plots ) Rules 1983. The 1983 Rules, apart from setting out the definition of locally displaced person set out how the allotment in respect of the displaced persons having a joint katha, being co-sharers, could be allotted only for one plot taking into account the whole of joint land acquired and further that the allotment could be made under Rule 11, only to persons who had applied for allotment within a period of three months from the date of the commencement of the

Rules. Such allotment would again be available only to persons, who owned more than half an acre of property, which was lost in the acquisition.

4. The first point for consideration would be the relevant rule that would be applicable. It could be noticed that there were at different times, three types of Rules, one Ludhiana Improvement Trust Land Disposal Rules, 1964; subsequently, Utilization of Land and Allotment of Plots by Improvement Trust Rules, 1975 till it was replaced by Punjab Town Improvement (Utilization of Land and Allotment of Plots ) Rules, 1983. The applicability of the relevant rule has been dealt with in several decisions of this Hon'ble Court and particularly the matter was considered in **Smt.Sushma Palta and others Vs. State of Punjab and others** reported in **2006 (4) RCR (Civil) 223**, where a Division Bench of this Hon'ble Court was considering the applicability of the Rule, in relation to the definition of a locally displaced person. Adverting to a situation that the acquisition had taken place prior to 1975, the Division Bench held that the definition that would govern, cannot be the 1975 Rules but only the Rules of the year 1951 would be applicable. This issue came up again in yet another case which was disposed in second appeal in **Kulwinder Singh Vs. Improvement Trust, Ludhiana**, in **SA No.2699 of 1997**, where the Court held that an advertisement which has been issued in the year 1974 before the actual acquisition would not be sufficient compliance of the Rules of the year 1964, since the publication was to be effected in a particular manner after the acquisition is made and therefore, any advertisement issued even prior to the date of acquisition cannot fetter the right of the individual to apply for an allotment without reference to the date stipulated in the 1974 advertisement. Judgment of this Court was also confirmed by the Hon'ble Supreme Court in **Improvement Trust, Ludhiana Vs. Kulwinder Singh** in **Civil Appeal No.1487 of 2003**. **Gurdev Kaur Vs. State of Punjab and another** in **CWP No.17248 of 1999**, again addressed the issue of allotment of a plot under

Ludhiana Improvement Trust Land Disposal Rules 1964, when the Court by application of the 1964 Rules directed the competent authority to pass an order of allotment of a suitable residential plot in a scheme area. The decision in **Gurmukh Singh Vs. State of Punjab and others** in **CWP No.4242 of 1985**, which the learned counsel for the respondent was fair to cite is the last judgment in the string of decision that considers the relevant rules that would be applicable and the manner of fixation of price. Referring to an acquisition of property and allotment of land to a locally displaced person prior to 1975, the learned single Judge held that the 1964 Rules would govern the right of the parties and the property could be allotted to him, if he is found eligible for such allotment at a rate at which the trust had lastly sold any residential plot in the development scheme. The entitlement under the 1964 Rules are set out through Section 2(b).

5. In this case, the allotment by the Chairman of the Board is attacked on the ground that the property was not even specifically described with reference to the khalta number or specific extent. It merely had set out the property by boundaries and the Chairman himself had issued several allotment letters by the same boundaries to other persons also and therefore, the offer which had been made was vague and hence not capable of enforcement .

6. The entitlement for allotment of a plot, in my view, cannot be denied and the petitioner shall be allotted a plot. Even the contention that the plot that was offered by the Chairman of the Board was vague, is contested by the counsel for the petitioner by saying that the property is specifically described with boundaries and there is no difficulty about identifying the same. Learned counsel for the respondent, however, contends that within the boundaries mentioned, there is larger extent of property more than 2000 sq. yds, which the petitioner is not entitled to. He contends that the Improvement Trust has passed a Resolution on 6.2.2001

proposing to raise a monument in the memory of martyrs of Kargil at the property, which the petitioner claims having been allotted to him. The construction of the memorial was stayed by an order of this Court in this writ petition, when the place was sought to be demarcated by erection of steel grill fencing.

7. The exact location of the property and the extent of property, originally allotted to the petitioner as wholly falling within the boundaries, is a subject of dispute between the parties, which this court in its exercise of jurisdictional power under Article 226 of Constitution cannot unravel without any further evidence. If the property, which is available there within the boundaries is only limited to the extent of 300 sq. yds, even a subsequent Resolution setting it apart for constructing a monument, shall not be put out against the petitioner. It shall be duty of the respondent to look for some other property for such use. If, on the other hand, the extent of property is larger, and the petitioner shall not be entitled to allotment of such a large plot, then the respondent would be entitled to put it to use for which a Resolution has been passed and they shall be at liberty to allot to the petitioner any other alternative plot, which is available under the Scheme.

8. The writ petition is allowed in the above terms. The compliance of order shall be made within a period of three months.

**CR No.2515 of 1989 (O&M)**

There is no representation for the petitioner. The order of impleadment already made by the court below, is confirmed in the light of entitlement as formed in the order in the writ petition. The Civil Revision is therefore dismissed.

March 09, 2010  
Vt

**(K.KANNAN)**  
**JUDGE**